

REMARKS

Claims 16-37 are pending. The applicant respectfully requests reconsideration and allowance of this application in view of the above amendments and the following remarks.

The applicant acknowledges and appreciates receiving an initialed copy of the form PTO-1449 which accompanied the Information Disclosure Statement that was filed on November 10, 2005.

Claims 16, 17, 19-21, 22-25, 27, 28, 30-32, and 34-36 were rejected under 35 USC 102(b) as being allegedly anticipated by Turcotte, et al., U.S. Patent No. 5,754,139 (hereinafter "Turcotte"). The applicant respectfully requests that this rejection be withdrawn for the following reasons.

In making the rejection of independent claims 16, 20, 24, 27, 31, and 35, the Examiner contends that Turcotte discloses features of the claimed invention including, for example, determining a first and second size of a communication cell and altering or changing the size of the cell from the first size to the second size based on factors such as the bandwidth demand of adjacent cells. The approach for making the change in cell size is clearly described in applicant's specification on page 11 lines 12-13 as dynamically modifying the cell geometry itself.

Applicant incidentally notes that the Examiner has adopted an improper perspective for examination by "reading" the prior art on the claims. It is well accepted practice that in order to establish the proper perspective for examination, the claims of the application must be read upon the prior art and not vice versa.

In support of the rejection, col. 10, lines 35-47 of Turcotte is cited as allegedly disclosing the claimed method of altering the size of the cell in response to bandwidth demands. Applicant

submits that Turcotte only describes allocating a greater number of beams to address bandwidth demands. While the passage above in col. 11, line 35-47 appears to contain a teaching of interest, a close review of the cited section and related sections reveals an entirely different approach and proves that Turcotte fails to disclose the features of the claimed invention.

For example, while Turcotte states in col. 13, line 14, that tasks 206 and 208 “*adjust the shape of the antenna beams based on the demand for communication services*,” a review of tasks 206 and 208, with reference to Fig. 8, reveals only that dynamic beam forming coefficients DBF are adjusted to provide a greater or lesser ***number of beams*** to the areas. Thus, applicant notes the system in Turcotte, particularly being expressly directed to phased array beam forming systems, explicitly describes that the inventive method and beam former is directed to providing only a greater or fewer number of beams rather than shaping the beams themselves (*see also*, e.g. col. 3, lines 46-50). In view of the above noted deficiencies, applicant respectfully submits that Turcotte fails to disclose, for example, that a communication cell is altered from a first size to a second size for any reason.

Applicant therefore submits that a *prima facie* case of anticipation has not properly been established in that Turcotte fails to disclose each and every feature of the claimed invention in the manner claimed. It is respectfully requested that the rejection of independent claims 16, 20, 24, 27, 31, and 35 be reconsidered and withdrawn.

Claims 17, 19, 21, 22, 23, 25, 28, 30, 32, 34, and 36, by virtue of depending from claims 16, 20, 24, 27, 31, and 35 are allowable for at least the reasons set forth hereinabove with regard to claims 16, 20, 24, 27, 31, and 35. It is respectfully requested that the rejection of claims 17, 19, 21, 22, 23, 25, 28, 30, 32, 34, and 36, be reconsidered and withdrawn.

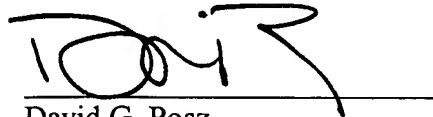
Claims 18, 22, 26, 29, 33 and 37 stand rejected under 35 USC 103(a) as being allegedly unpatentable over Turcotte in view of Montpetit, U.S. Patent No. 6,366,761. The applicant respectfully requests that this rejection be withdrawn for the following reasons.

Claims 18, 22, 26, 29, 33 and 37, by virtue of depending from claims 16, 20, 24, 27, 31, and 35 are allowable for at least the reasons set forth hereinabove with regard to claims 16, 20, 24, 27, 31, and 35. It is respectfully requested that the rejection of claims 18, 22, 26, 29, 33 and 37, be reconsidered and withdrawn.

In view of the foregoing, the applicant respectfully submits that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,



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